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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,233	02/19/2004	Ross Jonathan Hamel	008932-0726-999	7395
51832	7590	06/06/2007		
JONES DAY 222 EAST 41ST STREET NEW YORK, NY 10017-6702			EXAMINER COMSTOCK, DAVID C	
			ART UNIT 3733	PAPER NUMBER
			MAIL DATE 06/06/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/783,233

Applicant(s)

HAMEL, ROSS JONATHAN

Examiner

David Comstock

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-87 is/are pending in the application.
- 4a) Of the above claim(s) 10-30, 40, 48-65, 78-80, 82 and 87 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 31-39, 41-47, 66-77, 81 and 83-86 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments in the response filed 12 April 2007 have been fully considered and are persuasive. Therefore, the outstanding rejections over Standerwick et al. (3,072,118), as previously applied, have been withdrawn. The finality of the last action is also withdrawn. However, upon further consideration, new ground(s) of rejection have been made in view of Standerwick et al. (3072,118) in view of Farley et al. (6,663,630), as set forth below. Applicant's arguments are moot in view of the new grounds of rejection.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 7, 31-34, 41-45, 47, 66-69, 72-77, 81 and 83-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Standerwick et al. (3,072,118; of record) in view of Farley et al. (6,663,630).

Standerwick et al. disclose a fracture assembly comprising a reduction platform, e.g. 2, having receiving holes 28, a fragment manipulator, e.g. 8, having a bone engaging end 33, and a nut, e.g. 14, threadably and adjustably engaging the manipulator above the platform. The nut engages the top of the platform and the platform is between the nut and the bone engaging end of the manipulator. The second

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end of the manipulator includes a tool-engaging portion with a coupling surface 3. The bone engaging end has a self-drilling tip 33 (see col. 2, lines 48-51). The manipulator includes a second outer diameter portion 30 that is larger than a first outer diameter portion 32 and comprises a diameter that is smaller than a receiving hole. With regard to claim 72, the device is positioned over bone and the fragment manipulator is inserted through the reduction platform. (See, e.g., Fig. 1 and col. 3, line 14 - col. 4, line 27.) The fragment manipulator is inserted into bone. The nut is threaded onto the fragment manipulator and is made to contact the platform. The nut draws the manipulator upward during adjustment. Standerwick et al. disclose the claimed invention except for disclosing the threads. Farley et al. disclose a fixation system wherein threaded bone screws are used in place of pins in order to securely engage the skull and eliminate the danger of loosening skull pins (see, e.g.: Figs. 3-5, 7-9, 11 and 18; col. 1, lines 60-63; col. 2, lines 25-27, 32 and 33; col. 3, lines 42-45; col. 5, lines 51, 52, 56 and 57; col. 6, lines 14-16; and col. 7, lines 19-20, 65 and 66). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fracture assembly of Standerwick et al. with threaded bone screws instead of pins, in view of Farley et al., in order to securely engage the skull and eliminate the danger of loosening skull pins. The structure described in method claims 73-77, 81 and 83-86 has not been afforded patentable weight, since it has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961).

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Claims 5, 6 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Standerwick et al. (3,072,118; of record) in view of Farley et al. (6,663,630), as applied to claims 1 and 41 above, and further in view of Carol (4,955,891).

The device of the combination of Standerwick et al. and Farley et al. teaches the claimed invention except for the self-drilling threads. Carol discloses a system to be fixed on a skull and teaches the use of self-drilling screws 208 (see Fig. 9). The use of self-drilling screws reduces the number of steps required to secure the screws and consequently makes doing so easier and less time consuming. It would have been obvious to a person of ordinary skill in the art at the time of the invention to have provided the screws of the device of Standerwick et al. and Farley et al. with self-drilling threads, in view of Carol, in order to reduce the number of steps required to secure the screws and make doing so easier and less time consuming. It is also noted that the threads of the combination comprise portions of increasing diameter and constant diameter.

Claims 8, 9 and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Standerwick et al. (3,072,118; of record) in view of Farley (6,663,630), as applied to claim 1 above, and further in view of Letendart et al. (6,432,109; of record).

The device of the combination of Standerwick et al. and Farley et al. discloses the claimed invention except for the nut comprising a spherical nose interface. Letendart et al. disclose a similar device having a nut 4 comprising a spherical nose interface 9 to allow the device to be easily adjusted in a desired direction and facilitate

the procedure (see, e.g., Fig. 5 and col. 2, lines 1-8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of the device of Standerwick et al. and Farley et al. with a nut comprising a spherical nose interface, in view of Letendart et al., in order to allow the device to be easily adjusted in a desired direction and facilitate the procedure.

Claims 35, 36, 70 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Standerwick et al. (3,072,118; of record) in view of Farley (6,663,630), as applied to claims 34 and 69 above, and further in view of Bittner, Jr. (2,055,024; of record).

The device of the combination of Standerwick et al. and Farley et al. discloses the claimed invention except for the connection clamp and thumb wheel for the support system. Bittner, Jr. discloses a similar device comprising a connection clamp 6, 7, 8, 9 and a thumb wheel 5 for a support system to facilitate rapid adjustments and to promote proper healing (see, e.g., Fig. 1; col. 1, lines 15-17; and col. 4, lines 14 and 15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the assembly of the device of Standerwick et al. and Farley et al. with a connection clamp and thumb wheel for the support system, in view of Bittner, Jr., in order to facilitate rapid adjustments and to promote proper healing.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Comstock whose telephone number is (571) 272-4710. Please leave a detailed voice message if examiner is unavailable. If attempts to

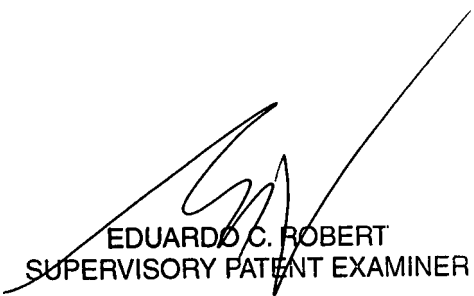
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reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached at (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



D. Comstock



EDUARDO C. ROBERT  
SUPERVISORY PATENT EXAMINER